PensionAdmin
The SSAS specialists

Quick Guide to SSAS

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What is a SSAS?

A Small Self Administered Scheme (SSAS) is an occupational pension scheme that gives its members and Trustees lots of flexibility and control over what it invests in. A bit of technical speak: It is a specific form of trust which complies with the Finance Act 2004 and is registered with HM Revenue Customs & Excise (HMRC) as a registered pension scheme.

A SSAS is set up on a "money purchase basis".

This means that the money members get out of the scheme when they retire depends on how much money is paid in for them, and how their investments perform.

The scheme can have up to 12 members and they are most likely to be directors, family or key employees of a company – which is known as the 'sponsoring employer'. Members must be over the age of 18 and for our schemes, all members are also Trustees.

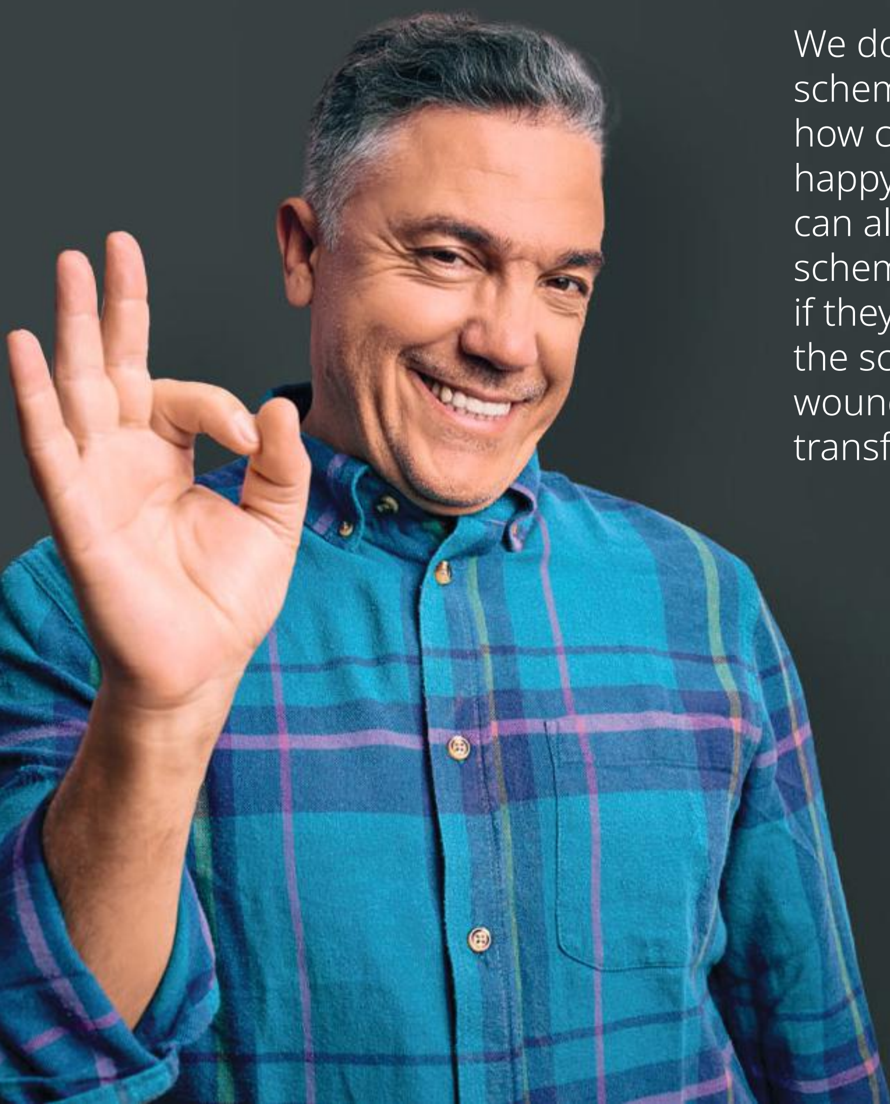
The sponsoring employer is the company who pays the contributions to the scheme for its employees. Contributions can be varied in line with its profits and there is no commitment to pay any level of contributions so no profit one year = no contributions have to be made.

Any contributions made to the scheme are tax relievable which means they are deducted from the company profits when calculating its corporation tax bill. Contributions can be made regularly, as one offs or a combination of both.

There is a maximum level of contributions that can be made for members and the level will vary depending on each member's circumstances.

We always check this out once we have details about each member.

An employer can have more than 1 SSAS and we insist the company is active and trading. The benefit of a SSAS is that it isn't tied to a particular provider so it can be moved to another provider if you are not happy the service you receive. The same goes for our SSAS's, if you are unhappy with our service, you can choose another provider to deal with your scheme.



We do not charge you to move your scheme to us, or away from us, that's how confident we are that you will be happy with our service. Any member can also transfer their share of the scheme to another pension scheme if they no longer want to be part of the scheme. The scheme can also be wound up once all members have been transferred out.

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How does a SSAS work?

Formal documents are required to set up the scheme which the sponsoring employer and member trustees will need to sign.

We provide all of this for you once you have completed our application form.

When the documents have been returned to us, we register the scheme with HMRC.

HMRC will review the application and once they are satisfied that the scheme is legitimate; they "approve" the scheme. You are then ready to go!

The SSAS will have its own bank account as funds are kept completely separate from any funds held for the employer. The money in this account can be invested and any further contributions are paid into this account.

Any investments the scheme members decide to make are made from this account too.

Each member has their own share of the scheme called "share of fund". So, for example, a scheme has 2 members being Lola and Josie. They run an online fashion store and set up a SSAS, but Lola works part time and Josie works full time. Lola has a contribution of £40,000 paid for her and Josie has £60,000. The split of the scheme is therefore 40% to Josie and 60% to Lola. Lola receives 40% of the interest in the bank account and Josie receives 60%. This is because Josie has the larger share of fund.

What can the scheme invest in?

As we have said previously, a SSAS is truly flexible and gives members lots of freedom to choose investments which they find interesting to them. So, let's have a look at what can be done with the funds once they are in the scheme:

- ***It can buy commercial property and land, which can be leased back to your business***
- ***It can lend money to the sponsoring employer***
- ***It can invest in stocks and shares on both the UK and recognised overseas stock exchange***
- ***It can buy unit trusts, bonds, OEIC's and gold bullion***
- ***It can buy shares in the sponsoring employer***
- ***Money can be lent to the scheme to help buy something for example, an office block***
- ***It can keep funds in cash - fixed term deposits are popular as they pay higher rates of interest***

A few examples are listed below of what the scheme can't do (well it can do these things, but you will be penalised with extortionate tax fines which basically make them pointless):

- ***Residential property unless it is employment related. A shop with a flat above is ok, as long as the flat is leased to the shop manager as a condition of their employment.***
- ***It cannot lend money to scheme members or people connected to members***
- ***It cannot buy single hotel rooms***
- ***It cannot buy any item of tangible moveable property – basically anything you can move or touch for example cases of fine wine, a selection of vintage cheeses, a race horse or cars***

Please remember though, these lists are not definitive. If you've got something specific in mind that you would like to do, give us a call or drop us an email and we will take a look at it for you.

Tell me about how I lend money back to the sponsoring employer?

Ok, this is called a Loanback and one of the most used facilities available under a SSAS. If you want a quick overview, carry on reading. We also have a more comprehensive guide available if you want to fully check out the facts but we will summarise the key points now, or jump to page 11's notes.

A Loanback can be made but it must match 5 criteria to be acceptable to HMRC and these are:

- *The maximum loan that can be made is 50% of the value of the SSAS less any existing loans. All loans must be made for genuine reasons of assisting the trade of the borrower*
- *It must be repaid within 5 years*
- *The company must pay back both capital and interest on an annual basis at least.*
- *The Loanback interest rate must be 1% above the average high street bank base rate. The loan interest is allowable as a business expense for tax purposes and is paid back into the scheme*
- *Loans must be secured against a first charge. You can use various items as security and commercial property or residential property can be used*

We provide all of the paperwork needed to do a Loanback and take all of this in hand for you. You can choose your own solicitor or legal adviser to place the charge upon the security; we do not force you to use any particular company. The SSAS can also loan to unconnected third-party companies where a sound investment proposal exists and it may not need to be secured.

And how do I purchase a commercial property?

If you decide you want your SSAS to buy a commercial property, this has quite a few advantages. For example, the SSAS can buy premises from your company which can then be leased back to the company.

Here are some advantages of buying a commercial property:

- *If purchased from your company, it can inject cash flow back into the business*
- *Tax relief is received on any contributions used to purchase the property*
- *Costs and fees to buy the property are payable from the SSAS*
- *The property is protected from creditors in the event of insolvency*
- *Growth in the value of the property when sold is free of Capital Gains Tax*
- *Rent paid by tenants provides a regular income which is free from Income Tax*
- *Rent is an allowable business expense if the premises are used for the member's own business*

Don't forget, the SSAS can borrow up to 50% of its value (less other loans of course) to help fund the purchase if it is short of cash.

The SSAS can also register for VAT meaning that VAT can be reclaimed on the purchase price.

Let's talk about Loanbacks

We have written an easy-to-read guide to explain what a SSAS Loanback is and this will hopefully answer any questions you may have. Once you have read the guide, if you have any questions, please do just come back to us.

A SSAS can make loans and it can lend money to:

- ***Its sponsoring employer***
- ***An associated employer (if it has been formally associated)***
- ***A company which is not connected to the scheme or its members***
- ***An individual who is not connected***

What can the Loanback be used for?

All loans must be made for genuine reasons of assisting the trade of the borrower and the loan must be used for this reason once paid. A few examples of this are purchase of commercial property, purchase of stock, plant or machinery. Note here though please, loans to keep ailing businesses afloat with cash flow are not allowed.

How much can the SSAS lend?

The maximum loan which may be made to a sponsoring or associated employer is 50% of the net value of the pension scheme's assets (50% of its value, minus any existing loans). The 50% rule does not apply to "unconnected parties" and we explain a bit more about that in further sections. If a loan exceeds the 50% limit, an unauthorised payments charge will apply. This is basically a hefty tax charge penalty applied by HMRC.

Tell me about how the loan needs to be secured?

All loans made to employers participating in the scheme must be secured throughout the term of the loan and the security requirements are:

- ***It must have real value and we will require an independent valuation of the asset***
- ***The value must be at least equal to the loan capital, plus interest over the loan term***
- ***The security must be a first legal charge over the asset***
- ***The security does not have to be provided by the borrowing party, it can be provided by other parties such as the pension scheme members or other family members.***

You may be wondering what can be used as security. A few examples are commercial property, certain business assets such as stock and personal investments such as land or investment portfolios.

HMRC state that residential property can be used as security and this falls into their category of "taxable property". This category also contains tangible moveable property and these items can be used as security, but only if two conditions are met:

1 - The SSAS does not pay for any of the fees or costs of making the loan or the legal charge

AND

2 - The legal charge document does not contain a mortgagee in possession clause, so on foreclosure the SSAS does not take ownership of the asset, but can only enforce its sale.

It is important to know that if the borrower defaults on the loan repayments or breaches the terms of the agreement, the scheme trustees must take all available steps to enforce the repayment of a loan.

There must be no preferential treatment given to a sponsoring employer when enforcing the collection of the loan, even where this would result in the company being placed into liquidation.

As always, failure to comply with these conditions will have consequences: unauthorised payment charges!

What interest is payable on the loan?

All loans must charge a minimum interest rate of 1% above the "average of the six leading high street bank base rates". For example, if the average bank base rate was 3.00%, the minimum interest payable is 4.00%.

Another great bonus of a loan to the SSAS's sponsoring employer is that the interest payable is a business expense, which aids with reducing the company corporation tax bill!

How long can the money be lent for?

The loan term will be for 5 years and will be fully repaid (interest and capital) by the end of the term.

How is the loan repaid?

The loan will be repaid in equal instalments of capital and interest for each complete year of the loan, whether monthly, quarterly, half-yearly or annually.

What about loans to unconnected parties?

A SSAS can make loans to unconnected parties - a broad definition of this is a person or company who is not connected to a scheme member by marriage, family or business.

There are no specific terms given by HMRC with regards to an unconnected party loan but the trustees should ensure any loan is prudent, secure and on a commercial basis. There is no specific limit on the percentage of the fund that can be lent to an unconnected party either.

Loans must not be made to unconnected parties for the purpose of purchasing taxable property such as residential property, vehicles, yachts, jewellery or fine art.

All about commercial property

A brilliant perk of a SSAS is that it can own commercial property. That has lots of tax advantages including:

- ***Tax relief on contributions paid to the SSAS which can be used to purchase the property***
- ***Rent paid by the tenants can be treated as a business expense and can reduce the income and corporation tax liability of the tenant***
- ***Any gain on the property value is free from Capital Gains Tax***
- ***Rent is paid to the SSAS and is free from Income Tax***

Read on and we will tell you about how this is done.

What kind of property can I buy?

For the SSAS to be able to purchase the property, it needs to be commercial and can be either freehold or leasehold.

Freehold means owning a property outright and in full and Leasehold means holding a property for a specific number of years in return for paying a rent to the landlord.

A few examples of the kind of property that can be purchased are:

- *Offices*
- *Industrial/business units and warehouses*
- *Shops*
- *Agricultural/forestry/development land*
- *Garages and car parks*
- *Nursing homes*
- *Pubs*
- *Hotels – as long as the scheme owns part or all of the whole building, rather than certain rooms*

What can't the SSAS buy?

Most people would like to buy residential property with their SSAS, but this is only allowed in certain circumstances - the residential part of the property must be an integral part of the commercial part of the property. An example of this would be a flat above a shop which is occupied by the shop manager as part of their terms of employment. It's important to remember here though that the employee can't be connected to any SSAS member.

Other properties that the SSAS can't own are:

- *Holiday lets*
- *Timeshares*
- *Beach huts*

Both of these lists are not exhaustive so if you have something specific in mind, please get in touch and we can discuss this with you.

Can the SSAS borrow money to pay for the purchase?

It certainly can. HMRC say that the SSAS can borrow up to 50% of its value (less any current borrowing) and money can be borrowed from a bank (a mortgage), scheme member or anyone else that is willing to lend the SSAS some money. If SSAS members are lending the money to the SSAS, the terms of the loan must be the same as what a bank would lend on. This keeps the deal on commercial terms.

Also, you can transfer any other pension policies you have into the SSAS to bump up the cash in the scheme.

Can I purchase a property with another person?

A SSAS can jointly purchase a property with someone else, another company or another pension scheme. The purchase doesn't have to be in equal proportions either.

Can the SSAS register for VAT?

Yes it can. A property is either subject to VAT when built (many new buildings are usually automatically registered for VAT) or can be elected for VAT, such as for development work. If the SSAS is registered for VAT, it can reclaim VAT on the purchase price plus costs for redeveloping or refurbishing.

This does also mean however that VAT will be charged on the both the rent and sale price when the property is sold.

Can I develop some land?

No problem. The SSAS can develop land as long as no residential habitable element is added. It can buy land and apply for residential planning permission and even start works on the site.

The key here is that it must be disposed of before it becomes "habitable".

What other costs are involved?

As with any property purchase, there will be fees to pay. These include solicitor's fees, Stamp Duty Land Tax, possibly VAT and lenders fees if the SSAS is borrowing money. All these costs are paid by the SSAS and need to be remembered when making a funding plan.

Are there any legal issues?

We will ask the solicitor acting for the SSAS to see to an environmental survey and full searches on behalf of the SSAS. This is important as if the property is contaminated and the polluter cannot be found, the owner is responsible for paying to clean up the site.

It would not be a great investment if you purchased some land without a survey only to find you are now responsible for thousands of pounds to clean up the site. Consideration also must be given to whether the property contains asbestos products.

Can I buy the property owned by my company?

Yes, you can buy your company premises and here are some advantages of doing that:

•It can inject cash flow back into your business

• Tax relief is received on any contributions paid to purchase the property

• Costs and fees to buy the property are payable from the SSAS

• The property is protected from creditors in the event of company insolvency

• Growth in the value of the property when sold is free of Capital Gains Tax

• Rent paid provides a regular income which is free from Income Tax

• Rent is an allowable business expense against the company corporation tax bill

You just need to note here that this purchase is a “connected party” transaction.

This also applies if you are purchasing from another person/company that is connected to you, for example your cousin or wife.

This just means that the property needs to be purchased on an arm’s length basis so the property will need to be valued by a qualified valuer to make sure a fair purchase price has been paid. If you need any clarification on this point, drop us an email and we will gladly talk this through with you.

If the SSAS is buying property from someone totally unconnected to the scheme and its members, a price is paid that has been negotiated between buyer and seller and a valuation is not needed.

A general definition of a ‘connected person’ is your spouse, a relative of either you or your spouse, the spouse of a relative of you or your spouse and a company which is controlled by you and/or persons connected with you. You may have to read that a few times!

What happens to the rental income?

The rent from tenants is free from Income Tax and is paid into the SSAS bank account. It can be used to fund borrowing repayments if the SSAS has borrowed money for the purchase or can be builtup tax free for another purpose, like another investment.

Rental income payable by the tenants can be treated by them as a business expense for tax purposes and can reduce the income and corporation tax liability of the tenant. This is especially great if you have purchased your business premises!

As with the purchase of the property, if the tenant is a connected party, the rent paid will need to be valued as open market by a qualified valuer. HMRC ask for this to ensure a connected party is paying the going rate for rent to keep it arms length. If the tenant is not a connected party, no rental valuation is needed.

Do I need a formal Lease?

Yes you do. Your SSAS can lease a commercial property to anyone, be it your business or somebody completely unconnected to you. If the Lease is to your business or someone else connected to you, it must be on 'arm's length commercial terms'. We would expect a tenant to enter a full 'insuring and repairing lease'.

Who looks after the property going forward?

We do. PensionAdmin will invoice tenants for rent and chase for payment. We will let you know when rent reviews are due or if the Lease is due to expire and we also look after the SSAS VAT returns for you. All we ask is that you deal with insuring the property (including public liability insurance) and we remind you when renewals are coming up. Alternatively, you can appoint a professional property management company, if you prefer.

Is there anything else I need to think about?

Yes, property is an illiquid investment. If it needs to be sold in a hurry – this may not be possible. Also, if you are taking a pension income from the SSAS, you may be reliant on the rent received from the property to pay your pension.

If the property is vacant for a while, the SSAS will need cash to carry on paying pensions. At this time, it will also need to pay for insurance, council rates and utility bills and a cash reserve may be needed.

What is a Scheme Administrator?

Every SSAS must have a "scheme administrator" and this person is appointed to be responsible for complying with the functions and responsibilities of a scheme administrator under the Finance Act 2004.

These functions and responsibilities include:

• ***Telling HMRC about events that have happened under the scheme***

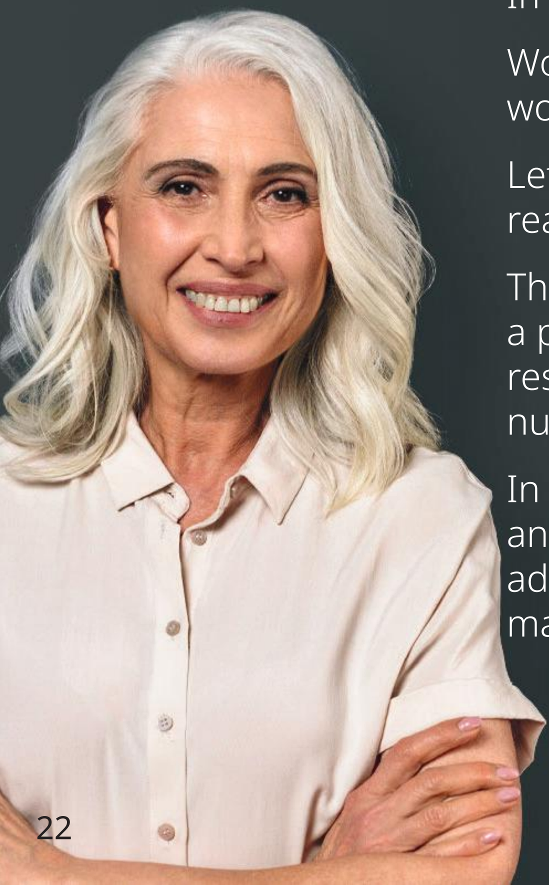
• ***Making returns to HMRC – the annual return is an example which is similar to a tax return***

• ***Telling the members mandatory information for example, what retirement benefits they are receiving and what the value of their scheme is***

• ***The worst one...paying certain tax charges!***

If a SSAS does not have a scheme administrator or the administrator acts improperly, HMRC may deregister it. This basically means that the SSAS loses its tax privileges and would be paying a large nasty tax penalty as consequence!

Can anyone be a scheme administrator?



In theory. Yes.

Would you want just "anyone" to do this role for you? We would suggest your answer to that question be...no.

Let us give you a bit of "why and when" to explain the reasons why.

The pension's rules changed in 2006 and before this time, a professional trustee was mandatory. This trustee was responsible for making sure the scheme towed the line of numerous rules and regulations.

In 2006, the role of "professional trustee" was removed and the role was soon replaced by the scheme administrator role. SSAS's no longer had to have a mandatory professional body to look after them.

That meant that anyone could be a scheme administrator, whether they had any pensions/tax/financial services experience. The result of that change was "pension liberation".

Lots of money was scammed out of pension schemes and a lot of people were robbed of their pension savings.

In the aftermath, HMRC took steps to stop this and introduced the "fit and proper" test.

What is the fit and proper test?

Factors that may lead HMRC to deciding that the scheme administrator is not a fit and proper person include the following:

- ***Does not have sufficient working knowledge of the pensions and pensions tax legislation to be fully aware and capable of assuming the significant duties and liabilities of the scheme administrator, or does not employ an advisor with this knowledge;***
- ***Has previously been involved in pension liberation;***
- ***Has previously been the scheme administrator of, or otherwise involved with, a pension scheme which has been de-registered by HMRC;***
- ***Has been involved in tax fraud, abuse of tax repayment systems or other fraudulent behaviour including misrepresentation and/or identity theft;***
- ***Has a criminal conviction relating to finance, corporate bodies or dishonesty;***
- ***Has been the subject of adverse civil proceedings relating to finance, corporate bodies or dishonesty/misconduct;***
- ***Has participated in or been connected with designing and/or marketing tax avoidance schemes;***
- ***Employs as an advisor a person who has been involved in pension liberation or tax avoidance;***
- ***Has been removed from acting as a trustee of a pension scheme by the Pensions Regulator or a Court, or has otherwise seriously contravened the pensions regulatory system, or the regulatory system of any other professional/ governmental regulatory body; and/or***
- ***Has been disqualified from acting as a company director or are bankrupt.***

As you can see, the scheme administrator role is important and should only be done by someone who has an extensive knowledge of pensions. A few SSAS administration companies won't act in this role and they pass the role onto a scheme member who, unbeknown to them, has just signed up for a world of responsibilities for the whole scheme and the worst....potential tax fines on them personally!

If I am acting as scheme administrator, what tax charges could I be liable for?

The SSAS can't do certain things (as outlined by HMRC) and a good scheme administrator will guide members through the legislation advising them what they can and can't do.

For example, Joe wanted to take some money out of the pension scheme to buy himself a new car and PensionAdmin told him this was absolutely not allowed as he was only 50 years old and in good health. Joe wasn't bothered and did it anyway –Joe has now made an "unauthorised payment". Translated, that is doing something that is not allowed which is not subject to a tax penalty.

This has ugly tax charges and straight away, Joe is going to be penalised 40% of the amount he has taken by HMRC. That is called the "unauthorised payment charge".

There is also the "scheme surcharge" which is another penalty applied by HMRC and this is charged if the amount of the unauthorised payment reaches over 25% of the value of Joe's pension scheme over a time of 12 months.

Let's assume this isn't the case for Joe but if it was, he would also have to pay this charge.

Lastly, it's the "scheme sanction charge" and this is payable by the scheme administrator. This charge is between 15% and 40% of the amount Joe has taken and the amount charged depends on whether or not the unauthorised payments charge has been paid.

Hopefully you can now see where we are going with this.

There are a number of issues; firstly, if the member's current administrator has appointed them as scheme administrator, they are now aware that they are liable for tax charges – even if it isn't them that has made the unauthorised payment. This is a real problem in that sometimes, the person who took the unauthorised payment is NOT the scheme administrator.

Secondly, if the schemes administration company has told the members that they can do something and it turns out they cannot (this is very common), the scheme administrator is liable for the penalty of that mistake.

If you go back to the "anyone can be a scheme administrator " question, you can now see why we suggest your answer to that question be "no".

How does PensionAdmin do it?

We act as both scheme administrator and professional trustee so we act as a trustee alongside scheme members. As co signatory to the SSAS assets, we offer the scheme and its member's protection from unauthorised payments and the charges that come with them.

Some other administration firms may say "we do not act as professional trustee to give the members true flexibility to do as they please" but they will also not act as scheme administrator. So in reality, they are giving advice to members on what to do with their SSAS with no liability whatsoever.

What could happen if I don't have one?

On a final note, we are seeing that more and more financial institutions will no longer place investments or open bank accounts for SSAS's that do not have a professional trustee or scheme administrator.

Barclays Stockbrokers and Cater Allen Private Bank are amongst these companies. Their stance on the matter is that they may become liable for aiding "unauthorised payments" by releasing funds that may not be used for the purpose of the pension scheme whereas a professional trustee and scheme administrator would not allow this.

We hope this has helped you understand this role and as always, if you want any clarification on anything at all, please get in touch.

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